

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMIE S. POLLACCIA,

Plaintiff,

Case No. 09-CV-14438

v.

HON. GEORGE CARAM STEEH

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

ORDER ACCEPTING REPORT AND RECOMMENDATION
DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT,
GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT IN PART
AND REMANDING CASE FOR FURTHER PROCEEDINGS

This matter is before the court on the parties' cross-motions for summary judgment with respect to plaintiff Jamie S. Pollaccia's claim for judicial review of the denial of her application for disability benefits and Social Security Income. The matter was referred to Magistrate Judge Mona Majzoub, who issued a report and recommendation on January 6, 2011, recommending that defendant's motion for summary judgment be denied, that plaintiff's motion for summary judgment be granted in part, and that the case be remanded for further proceedings. Neither party filed timely objections to the report and recommendation. The Court has considered the file, record and Magistrate's report and recommendation.

The Court agrees with the recommendation that the case should be

remanded given that the ALJ's findings concerning plaintiff's credibility and the resulting step four findings are not supported by substantial evidence when considering the record in its entirety. Therefore, the case is remanded to the ALJ pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings, as set forth in the report and recommendation. Specifically, the ALJ should (1) re-evaluate plaintiff's mental impairments at steps two and three with citations to the evidence; (2) re-evaluate plaintiff's credibility and, if necessary, plaintiff's RFC; and (3) if warranted, conduct a new step-four and a new step-five analysis.

The Court hereby ACCEPTS Magistrate Judge Majzoub's January 6, 2011 report and recommendation. Defendant Commissioner of Social Security's motion for summary judgment is hereby DENIED. Plaintiff's motion for summary judgment is hereby GRANTED IN PART and the case is hereby REMANDED for further proceedings as set forth herein.

SO ORDERED.

Dated: January 25, 2011

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on January 25, 2011, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk